IN THE COURT OF APPEALS OF IOWA

No. 1999-390 (9-643) / 98-2219
Filed January 26, 2000

STATE OF IOWA,

Appellee,

vs.

TIM LEE WHITE,

Appellant.

FILED
JAN 2 6 2000
CLERK SUPREME COURT

Appeal from the Iowa District Court for Lee (South) County, David B. Hendrickson, Judge.

Tim Lee White challenges the sufficiency of the evidence to support his conviction for second-degree robbery. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Tom W. Andrews, Assistant Attorney General, Lee W. Beine, County Attorney, and Bruce C. McDonald, Assistant County Attorney, for appellee.

Considered by Mahan, P.J., and Zimmer, and Vaitheswaran, JJ.

ZIMMER, J.

Tim Lee White challenges the sufficiency of the evidence to support his conviction for second-degree robbery. We affirm.

White was arrested and charged with first-degree robbery. Trial commenced in November of 1998. A jury returned a guilty verdict on second-degree robbery. The district court sentenced White to a term of imprisonment not to exceed ten years. White appeals.

I. Scope and Standard of Review. White challenges the sufficiency of the evidence to support his conviction. We review such claims for errors at law. *State v. Chang*, 587 N.W.2d 459, 461 (Iowa 1998).

The standards applied in such a review are well-established:

> The jury's findings of guilt are binding on appeal if supported by substantial evidence. . . . In deciding whether there is such substantial evidence, we view the record evidence in the light most favorable to the State. . . . Substantial evidence is such evidence as could convince a rational fact finder that the defendant is guilty beyond a reasonable doubt. . . .

State v. Query, 594 N.W.2d 438, 445 (Iowa App. 1999) (citations omitted). We do not make an independent determination of "whether the evidence established guilt beyond a reasonable doubt"; rather, we determine the legal sufficiency of the evidence to support the verdict. *State v. Anderson*, 517 N.W.2d 208, 211 (Iowa 1994).

II. Sufficiency of the Evidence. White contends the trial court erred by denying his motion for judgment of acquittal.

Robbery is committed when

having the intent to commit a theft, the person does any of the following acts to assist or further the commission of the intended theft or the person's escape from the scene thereof with or without the stolen property:

. . . .

2. Threatens another with or purposely puts another in fear of immediate serious injury.

Iowa Code § 711.1(2) (1997).

We determine overwhelming evidence supported the jury's verdict. The jury could have found the following facts. In the early morning hours of September 4, 1998, White arrived at Harrington's Lounge around 1:30 a.m. and requested a free birthday drink. The bartender gave him a free bottle of Bud Light beer. White used the lounge's phone to make a call after he asked someone "if the cabs were running." White then left the bar with his birthday beer. White testified he had no money when he arrived at the bar and called a cab intending to steal the cab's services by running away before paying the fare. White also indicated he wanted to get money from the cabbie to buy cigarettes or trick the cabbie into handing him money for sex and then run away.

At approximately 2:00 a.m. on the same date, cabbie Bernard Land arrived at the lounge to pick up a fare. White was seated on the steps outside the bar when Land arrived. Upon entering the front seat of the cab, White announced he had a gun and wanted money. A struggle ensued. White waved a beer bottle at Land, trying to hit his face, and grabbed the cab radio away from Land. When Land tried to pull over and shut off the cab, White grabbed Land's arm and swung the bottle at him. White seized the steering wheel after Land tried to attract attention by going the wrong way down a one-way street. The ride concluded with White

again demanding money, Land handing it over, and White fleeing the scene with the cash.

White's girlfriend, April Walker, testified he came to her house shortly after 2:00 a.m. on September 4, 1998. White told her he had just robbed a cabbie. He then 'bummed' Walker for some cigarettes and went to a nearby convenience store.

The State appropriately characterizes the evidence against White as 'compelling.' Substantial evidence supports a finding White entered the cab and threatened Land with serious injury in order to steal services, cash, or both. Land emphatically testified White commandeered his cab, first threatening him with a beer bottle and then stating he had a gun and would blow Land's head off. White's own admissions provided additional circumstantial evidence. He testified he had no money at the bar but went to a convenience store approximately one-half hour later. White offered no plausible explanation for going to the convenience store without money. Walker testified White did not ask her for money that night. White claimed he went to the convenience store to use the bathroom, but admitted he had used Walker's bathroom not five minutes before. Although he denied threatening Land, White admitted he called the cab intending to steal a ride and perhaps 'trick' the cabbie out of some money. We find substantial evidence supports the jury's guilty verdict.

AFFIRMED.